

REMARKS

This is intended to be a complete response to the Official Action mailed April 17, 2008, in which claims 1-25 were rejected. Claims 1, 3, 5, 8, 21 and 25 are currently amended to more clearly recite the inventive concepts therein. For the following reasons, Applicant respectfully submits that claims 1-25, as currently amended, are in condition for allowance. As such, Applicant respectfully requests reconsideration and withdrawal of each rejection, such that claims 1-25 may be passed to timely issuance.

Claim Rejections – 35 U.S.C. § 112

Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 25 is currently amended to recite the limitation "the personal information" rather than "the security information," thus providing antecedent basis for this limitation. Applicant submits the Examiner's rejection under 35 U.S.C. § 112, second paragraph, of amended claim 25 should be withdrawn.

Claim Rejections – 35 U.S.C. § 103

In the Office Action the Examiner rejected claims 1-25 as being unpatentable over U.S. PGPub. No. 2002/0133371 (hereinafter Cole '371), in view of U.S. Pat. No. 5,657,389 (hereinafter Houvener '389). Specifically,

the Examiner asserted that the combination of the Cole '371 and Houvener '389 references disclosed every element of independent claims 1, 20 and 21, and dependent claims 2, 10, 11, 14, 17, 18, 19, 20, 21, 23, and 25, as originally submitted, and that missing elements in the remaining claims 3-9, 12, 13, 15, 16, 22 and 24 are well known in the art. In response, independent claim 1, claims 3, 5 and 8 which depend from claim 1, and independent claim 21 are currently amended to more clearly recite the inventive concepts therein.

More specifically, independent claim 1, and therefore each of claims 2-19 which depend therefrom, now recites a method for protecting real estate and/or a true owner's equity therein from fraudulent conveyance, mortgaging or other fraudulent transactions and encumbrances involving the real estate comprising: (a) executing a written instrument comprising a lien on the real estate **by a first party lien holder**; (b) recording the written instrument so as to give public notice according to applicable laws and regulations; (c) compiling and documenting personal information evidencing the true owner's identity; and (d) based on said personal information, **the first party lien holder** verifying, when notice of a pending transfer or encumbrance of the real estate is received **from a second party seeking a pay off statement or balance on said lien by the first party lien holder**, that the one attempting to transfer or encumber the real estate

is in fact the true owner. Support for the amendments is found in the specification at, for example, Example 1.

The Examiner reasoned that Cole '371 discloses executing a written instrument and recording a lien, and Houvener '389 discloses compiling information evidencing an owner's identity and verifying the user is the actual owner. However, neither reference discloses "executing a written instrument comprising a lien on the real estate **by a first party lien holder,**" and "**the first party lien holder** verifying, when notice of a pending transfer or encumbrance of the real estate is received **from a second party seeking a pay off statement or balance on said lien by the first party lien holder,** that the one attempting to transfer or encumber the real estate is in fact the true owner." Current practice in the field is for the first party lien holder to supply a "pay off statement" or balance to the second party when requested to do so, and **not** to verify that "the one attempting to transfer or encumber the real estate is in fact the true owner" as suggested by the Examiner. Cole '371 deals only with a present loan application and a present potential lender. Similarly, Houvener '389 presents an identity verification terminal for a present request for credit and a potential creditor. Neither reference contemplates using a previous creditor or first party lien holder to "hold up" the contemplated transaction with a second party until the first party verifies the one attempting to

transfer or encumber the real estate is in fact the true owner. Further, there is no obvious incentive for a first lien holder party to verify that the one attempting to transfer or encumber the real estate with a second party is in fact the true owner.

As the Examiner is aware, a *prima facie* case of obviousness requires that the combined prior art references must teach or suggest every limitation of a claim. MPEP § 2143.03; *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). No combination of the cited prior art references teaches or suggests every limitation of independent claim 1, as amended, and therefore cannot teach every limitation of any of claims 2-19, which depend therefrom. Specifically, no combination of the Cole and Houvener references discloses, teaches, or suggests the steps of "executing a written instrument comprising a lien on the real estate **by a first party lien holder,**" and "**the first party lien**

holder verifying, when notice of a pending transfer or encumbrance of the real estate is received **from a second party seeking a pay off statement or balance on said lien by the first party lien holder**, that the one attempting to transfer or encumber the real estate is in fact the true owner," as required by Applicant's amended claim 1 and claims 2-19 which depend therefrom. Further, the Examiner offered no reasoning as to why the artisan would have found claim 1, as amended, and claims 2-19 which depend therefrom, to have been obvious.

With respect to independent claim 20, Applicant submits that the Examiner's interpretation is incorrect. Exhibit A illustrates the difference between the Examiner's interpretation of claim 20 and the present invention. The Examiner reasoned that an owner approaching a bank for a second mortgage results in the bank requesting a lien release and the bank requesting the owner's identity. However, claim 20 of the present invention calls for a true owner and a lender to execute a written instrument wherein a lien is obtained by the lender in exchange for a loan of money or service to the true owner. Additionally, a contract between **the lender** (lien holder) and owner specifies that when requested to release the lien (by for example a bank), **the lender** is required to investigate that the true owner is aware of the pending transaction and to confirm that the true owner is not being fraudulently represented in the transaction prior to release of the lien by the

lender. As discussed above, investigation by the lender and lien holder is not disclosed, taught, or suggested by the Cole '371 and Houvener '389 references. Additionally, prior to the present invention, the existing lien holder had no obvious incentive to investigate potential fraud since the existing lien holder would be simply paid off.

Applicant further submits that independent claim 21, and each of claims 22-25 which depend therefrom, calls for a system comprising a written instrument ... whereby a lien on the real estate is provided to a **service company**; means for documenting and maintaining personal information **by the service company** as evidence of the true owner's identity; and means for confirming, **by the service company** upon receiving notice of a pending sale, mortgage or other transaction involving the real estate, the true owner's identity based on the documented personal information, and for confirming that the true owner is aware of the sale, mortgage or other transaction and that the true owner is not being fraudulently represented in the sale, mortgage or other transaction. Applicants assert that such system is not disclosed, or obvious from, the Cole '371 and Houvener '389 references for reasons stated previously.

CONCLUSION

In view of the above, Applicants respectfully suggest the claims are now in a condition for allowance and request issuance of a Notice of Allowance thereof.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barbara Krebs Yuill". The signature is fluid and cursive, with the first name "Barbara" being the most prominent.

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